

ESTTA Tracking number: **ESTTA121141**

Filing date: **01/23/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Magnadyne Corporation
Granted to Date of previous extension	03/14/2007
Address	1111 West Victoria Street Compton, CA 90220 UNITED STATES
Attorney information	Matthew R. Mowers BROOKS KUSHMAN P.C. 1000 Town Center, 22nd floor Southfield, MI 48075 UNITED STATES mmowers@brookskushman.com, sgibbons@brookskushman.com

Applicant Information

Application No	76655958	Publication date	11/14/2006
Opposition Filing Date	01/23/2007	Opposition Period Ends	03/14/2007
Applicant	Movievision Inc. 9435 CHARLEVILLE BLVD. BEVERLY HILLS, CA 90212 UNITED STATES		

Goods/Services Affected by Opposition

Class 038. All goods and sevices in the class are opposed, namely: Pay-per-view television transmission services featuring recently released movies in English, Spanish, Cantonese, and Russia via cable

Attachments	Notice of Opposition.pdf (5 pages)(153707 bytes)
Signature	/mrm/
Name	Matthew R. Mowers
Date	01/23/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Trademark Application Serial No. 76/655,958

Filed: March 2, 2006

Trademark: MOVIEVISION

Published in the *Official Gazette* at TM 728 on November 14, 2006

MAGNADYNE CORPORATION)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
MOVIEVISION, INC.)	
)	
Applicant.)	

NOTICE OF OPPOSITION

FILED ELECTRONICALLY
Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Sir:

MAGNADYNE CORPORATION, ("Opposer"), a California corporation with a place of business at 1111 West Victoria Street, Compton, California, 90220, believes that it is and will continue to be damaged by the Applicant MOVIEVISION, INC.'s ("Applicant") registration of the mark MOVIEVISION for pay-per-view television transmission services featuring recently released movies in English, Spanish, Cantonese and Russia via cable in International Class 38, and hereby opposes registration of this mark.

As grounds for opposition, the Opposer alleges as follows:

1. The Opposer is a world-famous manufacturer and distributor of vehicle electronics and wireless products. Opposer's products include vehicle security systems, high-end audio and video devices, and wireless products for sale and distribution to original equipment manufacturers (OEMs), authorized dealers and for aftermarket sale.

2. Opposer is the owner of U.S. Registration No. 2,518,066, for the mark MOVIE VISION and U.S. Registration No. 2,520,719 for the mark MOVIE VISION MV and Design, both for use in connection with "video entertainment systems for vehicles, namely, electronic audio, video and video game components in the nature of video cassette tape players, digital video disk players, video game players and television receivers with video display devices" automobiles in International Class 9 ("Opposer's MOVIE VISION marks").

3. Opposer has used the MOVIE VISION marks from a date at least as early as July, 1999 in connection with the above-identified goods and related services.

4. The foregoing registrations are valid, subsisting and constitute prima facie evidence of the validity of the Opposer's MOVIE VISION marks and registrations, of Opposer's ownership of and exclusive right to use the Opposer's MOVIE VISION marks in commerce, and provides constructive notice of ownership thereof by Opposer.

5. Opposer has expended considerable effort and expense in promoting the Opposer's MOVIE VISION marks and the goods associated with this mark, with the result that the purchasing public has come to know and recognize the products of the Opposer by these marks. Opposer has exceedingly valuable good will established in the Opposer's MOVIE VISION marks.

6. Upon information and belief, Applicant Movievision, Inc. filed an intent-to-use based application on March 2, 2006 for the mark MOVIEVISION in stylized form (“Applicant’s MOVIEVISION mark”). Applicant amended the application during prosecution to an intent-to-use based application. As published, this application covers “pay-per-view television transmission services featuring recently released movies in English, Spanish, Cantonese and Russia via cable” in International Class 38.

7. Upon information and belief, Applicant’s application has been assigned Serial No. 76/655,958.

8. There is no issue as to priority. Upon information and belief, Applicant filed its application for Applicant’s MOVIEVISION mark long after Opposer obtained trademark rights in the Opposer’s MOVIE VISION marks.

9. The services identified by Applicant’s MOVIEVISION mark are directly related to and confusingly similar to the goods and accessories offered under the Opposer’s MOVIE VISION marks.

10. Upon information and belief, at the time Applicant filed its trademark application to register Applicant’s MOVIEVISION mark, Applicant had full knowledge that Opposer used the Opposer’s MOVIE VISION marks to identify its goods and related services offered in connection therewith.

11. Applicant’s MOVIEVISION mark so resembles the Opposer’s previously-used and registered Opposer’s MOVIE VISION marks as to be likely, when used in connection with Applicant’s goods, to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, as amended, 15 U.S.C. § 1052(d).

12. Applicant's MOVIEVISION mark consists of matter which falsely suggests a connection with the Opposer under Section 2(a) of the Lanham Act, as amended, 15 U.S.C. §1052(a).

13. Applicant's use of the Applicant's MOVIEVISION mark is likely to cause, and will cause, dilution of the distinctive value of Opposer's MOVIE VISION marks under Section 43(c) of the Lanham Act of 1946, as amended, 15 U.S.C. §1125(c).


14. If Applicant were granted the registration herein opposed, it would obtain at least a *prima facie* exclusive right to use of the Applicant's MOVIEVISION mark in connection with the designated services. Such registration would be a source of injury and damage to the Opposer.

15. Since the mark as described in the application is identical to Opposer's MOVIE VISION marks, and Applicant's services are closely related to the goods for which Opposer owns registrations, confusion and deception as to the origin of the Applicant's services bearing the Applicant's MOVIEVISION mark would occur, all to the damage and detriment of Opposer. Such use would cause confusion in the trade resulting in damage and injury to Opposer.

16. For the foregoing reasons, Opposer Magnadyne Corporation will be damaged by the registration of Applicant's MOVIEVISION mark.

WHEREFORE, Opposer requests that registration of Applicant's MOVIEVISION mark, Application Serial No. 76/655,958, be refused and this opposition be sustained.

Respectfully submitted,

By 
Kevin J. Heint
Matthew R. Mowers
Attorneys/Agents for Applicant

Date: January 23, 2007

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